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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,796	09/28/2001	Maximilian Angel	0050/51796	2868

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EXAMINER	
REDDICK, MARIE L	

ART UNIT	PAPER NUMBER
1713	

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/964,796	ANGEL ET AL.	
	Examiner	Art Unit	
	Judy M. Reddick	1713	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *NONE*.

   Claim(s) objected to: *NONE*.

   Claim(s) rejected: *1-8*.

   Claim(s) withdrawn from consideration: *NONE*.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☒ Other: *See Continuation Sheet*

Judy M. Reddick
Primary Examiner
Art Unit: 1713

Continuation of 5. does NOT place the application in condition for allowance because: of reasons clearly stated in the Grounds of Rejection per the previous Office Action (06/07/04, paragraph no. 4).

Continuation of 10. Other: The crux of Counsel's arguments appears to hinge on the content of hydroxyalkyl (meth)acrylate in the monomer mixture not being taught by Dragner. With all due respect to Counsel's opinion, the claims, in their present form, only require that the hydroxyalkyl(meth)acrylate be at least equal to the content of (A) or (B). At col. 2, lines 44-63, Dragner et al teach that the vinyl and/or acrylic monomers are present in a concentration of from 65-88 % by weight, wherein suitable monomers include hydroxy ethyl acrylate, hydroxy propyl acrylate, vinyl acetate, methyl methacrylate, ethyl acrylate, etc. (monomers which meet the claimed mixture), To this end, one would have readily evisaged the copolymer, as claimed. If not so, it would have been obvious to the skilled artisan to extrapolate, from Dragner et al, the precisely defined copolymer, as claimed, as per such having been within the purview of the general disclosure of Dragner and with a reasonable expectation of success. Furthermore, Dragner teach that the copolymer is in latex form and therefore believed sufficient to meet the claimed "water-dispersible"property. It is urged and maintained that the use of the copolymer binder emulsion of Dragner et al in the coating of a pharmaceutical dosage form is tenable since the copolymer is essentially the same as the claimed copolymer. There is nothing viable on this record diffusing this issue. Mere arguments by Counsel unsupported by factual evidence are given little weight(In re Lindner, 173 USPQ 356).